IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

TUESDAY, THE 5TH JUNE 2007 / 15TH JYAISHTA 1929

OP.No. 14650 of 1999(R)

PETITIONER:

G.ELASA CHRISTY BAI,
L.D.ACCOUNTANT, KERALA STATE HANDICAPPED
PERSONS' WELFARE CORPORATION LTD.,
JUVENILE, COMPOUND POOJAPPURA,
THIRUVANANTHAPURAM.

BY ADV. SRI.N.KARUNAKARAN

RESPONDENTS:
----

1. **MANAGING DIRECTOR, KERALA STATE HANDICAPPED PERSONS WELFARE CORPORATION LTD., JUVENILE HOME COMPOUND, POOJAPPURA, THIRUVANANTHAPURAM- 12.**

2. **CHAIRMAN, DO. DO.**

3. **KERALA STATE HANDICAPPED PERSONS, WELFARE CORPORATION LTD., DO. DO. REP.BY ITS MANAGING DIRECTOR.**

4. **SECRETARY TO GOVERNMENT, SOCIAL WELFARE DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.**

BY ADV. SRI.P.SANTHOSH KUMAR (PANAMPALLI NAGAR)
BY GOVERNMENT PLEADER SRI.P.SANTHOSH KUMAR

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 05/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP. NO.23709/1999 IN OP. NO.14650/1999

DISMISSED

05.06.2007 **SD/- THOTTATHIL B.RADHAKRISHNAN , JUDGE**

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE ORDER NO.1`239/96 DT. 14.5.96 OF THE 1ST RESPONDENT.

EXT.P2:- COPY OF THE REPORT DT.15.5.96 OF THE PETITIONER.

EXT.P3:- COPY OF THE REPORT DT. 16.5.96 FROM THE PETITIONER.

EXT.P4:- COPY OF THE REPORT OF THE PETITIONER DT. 18.5.96.

EXT.P5:- COPY OF THE REPORT OF THE PETITIONER DT. 24.7.96.

EXT.P6:- COPY OF THE ORDER DT. 2.5.97 OF THE 1ST RESPONDENT.

EXT.P7:- COPY OF THE CHARGE REPORT OF THE PETITIONER.

EXT.P8:- COPY OF THE REPORT DT. 8.5.97 IN TAKING CHARGE BY THE NEWLY POSTED MANAGER.

EXT.P9:- COPY OF THE MEDICAL CERTIFICATE ISSUED TO THE PETITIONER DT. 9.5.97.

EXT.P10:- COPY OF THE REPORT DT. 13.5.97 OF THE PETITIONER.

EXT.P11:- COPY OF THE REPLY OF THE PETITIONER DT. 24.5.97.

EXT.P12:- COPY OF THE PETITION DT. 29.5.97 FILE BEFORE THE HONOURABLE MINISTER.

EXT.P13:- COPY OF THE PETITION DT. 29.5.97 ADDRESSED TO THE CHAIRPERSON, WOMENS COMMISSION.

EXT.P14:- COPY OF THE ENQUIRY REPORT DT. 23.9.97.

EXT.P15:- COPY OF THE ORDER DT. 16.4.98 OF THE 1ST RESPONDENT.

EXT.P16:- COPY OF THE OBJECTIONS OF THE PETITIONER DT. 11.5.98.

EXT.P17:- COPY OF THE ORDER DT. 20.7. 98 OF THE 1ST RESPONDENT.

EXT.P18:- COPY OF THE ORDER DT. 16.2.99 OF THE 1ST RESPONDENT AS THE APPELLATE AUTHORITY.

OP. NO.14650/1999

EXT.P19:- COPY OF THE REVISION PETITION DT. 2.3.99 FROM THE PETITIONER BEFORE THE SECRETARY TO GOVERNMENT SOCIAL WELFARE DEPARTMENT.

EXT.P20:- COPY OF THE ORDER DT. 10.3.99 ISSUED BY THE 1ST RESPONDENT.

EXT.P21:- COPY OF THE SAID ORDER DT. 15.4.99 OF THE MANAGING DIRECTOR KERALA STATE HANDICAPPED PERSONS WELFARE CORPORATION , TVM.

RESPONDENTS EXHIBITS

EXT.R1(a):- COPY OF THE CHARGE REPORT OF THE PETITIONER DT. 22.5.96.

EXT.R1(b):- COPY OF THE TRANSFER OF CHARGE BY SMT.T.PICHI.

/TRUE COPY/

tss

THOTTATHIL B. RADHAKRISHNAN, J.

= =

O.P.No.14650 of 1999-R

= =

Dated this the 5th day of June, 2007.

JUDGMENT

Petitioner, while working as L.D.Accountant in the service of the Kerala State Handicapped Persons' Welfare Corporation Limited, was alleged to have defied instructions given by the Managing Director and to have deliberately evaded to effect proper handing over charge of Store. Memo of charges was issued against her on the grounds that she had failed to take into stock the articles purchased for supply to the ICDS projects, that she had failed to hand over the stock statement of ICDS articles to the new incumbent while relinquishing charge of Manager on 7-5-1997, that she defied to comply with the oral instruction of the M.D. on 8-5-1997 to take into stock the articles purchased for ICDS project and hand over the stock statement to the new Manager, that she deliberately proceeded on leave with effect from 10-5-1997 as to avoid taking the stock position and that she caused shortage of articles worth Rs.53069.27 purchased for the

ICDS projects. A formal enquiry was conducted which resulted in the delinquent, the writ petitioner being found guilty of the charges. Punishment of barring three increments with cumulative effect was imposed on her. On appeal to the Chairman of the Corporation, the punishment was reduced to the barring of increments without cumulative effect. Apart from the punishment of barring increments, the petitioner was fixed with the liability to return Rs.53069.27, the value of articles which were not accounted for. With the passage of time and with the decision in the appeal to treat the barring of increments to be without cumulative effect, the period spent by the petitioner under suspension during the pendency of the enquiry was ordered to be treated as eligible leave. It is stated that an amount of around Rs.23,000/- has been remitted by the petitioner as against the outstanding Rs.53069.27.

2. Having heard counsel, I do not find any ground to interfere with the disciplinary proceedings. There is no procedural irregularity, illegality or impropriety in the matter of conducting the enquiry or in the matter of procedure in hearing the appeal. Though a contention is raised that the disciplinary

authority has himself decided the appeal, it is wrong because the Managing Director was the disciplinary authority and the appeal has been considered and disposed of by the Chairman of the Corporation. Under such circumstances, while rejecting the contention of the writ petitioner, the entitlement of the employer Corporation to the balance amount outstanding from her is confirmed.

In the result, the writ petition fails. The same is dismissed. No costs.

THOTTATHIL B. RADHAKRISHNAN,
JUDGE.

Sha/-

THOTTATHIL B. RADHAKRISHNAN, J.

= =

O.P.No.14650 of 1999-R

= =

JUDGMENT

Dated: 6th June, 2007.